



# ***47-50 The Esplanade - Ettalong Beach***

*Section 4.55(1A)  
Modification Assessment  
(MP 09\_0121 MOD 5)*



April 2019

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# Glossary

Abbreviation	Definition
ADG	Apartment Design Guide
Council	Central Coast Council
Department	Department of Planning and Environment
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
EPI	Environmental Planning Instrument
ESD	Ecologically Sustainable Development
IPC	Independent Planning Commission
LEP	Local Environmental Plan
Minister	Minister for Planning
OEH	Office of Environment and Heritage
Applicant	Longbeach Living Pty Ltd
RMS	Roads and Maritime Services
RtS	Response to Submissions
Secretary	Secretary of the Department of Planning and Environment
SEPP	State Environmental Planning Policy



# Executive Summary

This report is an assessment of a section 4.55(1A) modification application seeking to amend the approval for a mixed-use development at 47-50 The Esplanade, Ettalong Beach (09\_0121 MOD 5). The site is located on the southern edge of the Ettalong town centre in the Central Coast local government area.

The current approval permits the construction of a mixed-use development over two stages, including the construction of a seven-storey mixed-use building (Stage 1) and a two-storey commercial building (Stage 2).

The proposed modification sought approval to make minor internal and external additions and alternations, including extended and additional balconies, a rooftop terrace and changes to the ground floor public bathroom.

The request has been lodged by Planning Lab, on behalf of Longbeach Living Pty Ltd (the Applicant), pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

## Engagement

The Department of Planning and Environment (the Department) notified the application between 9 November and 7 December 2018. The Department received a total of 23 submissions, comprising a submission from Council and 22 submissions from the public (including 19 objections). Council did not object to the proposed modification.

Key issues raised in public submissions included view loss, noise and visual privacy impacts.

## Response to Submissions

The Department requested the Applicant to address the issues raised in submissions. The Applicant submitted a Response to Submissions (RtS) which amended the proposal by:

- reducing the balcony extensions and length of privacy screens on levels 3 and 5;
- proposing new frameless glass balustrades on levels 3 and 5 balconies; and
- removing the proposed rooftop terrace.

## Conclusion

The Department has carefully assessed the merits of the proposal as well as the issues raised in submissions. The Department is satisfied the revised proposal is acceptable as:

- the potential view loss impacts associated with the proposal would be negligible
- the proposal would not result in any significant noise and visual privacy compared to the original approval
- the proposal would largely be undertaken within the approved building envelope and would not increase the height, bulk or scale of the building
- the proposal would improve the amenity of some apartments through the provision of additional private open space
- appropriate conditions are recommended to increase the safety of the ground floor public bathroom.

The Department is, therefore satisfied that the modification should be approved, subject to the recommended conditions. The modification request is referred to the Independent Planning Commission for determination as a previous political donation has been made and the Department received more than 10 submissions objecting to the proposal.



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# 1. Introduction

## 1.1 Background

This report provides an assessment of an application to modify the Project Approval (MP 09\_0121) for a mixed-use development at 47 – 50 The Esplanade, Ettalong Beach, in the Central Coast local government area.

The application seeks approval for minor internal and external additions and alterations, including additional and extended balconies to the approved apartments.

The application was lodged by Planning Lab, on behalf of Longbeach Living Pty Ltd (the Applicant) pursuant to section 4.55(1A) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

## 1.2 Subject site

The subject site is located on the southern edge of the Ettalong Beach town centre. The development site comprises two land holdings, separated by a six metre (m) wide Council laneway (see **Figure 1**). The site has frontage to The Esplanade to the south and Memorial Avenue to the west. The site is legally described as Lots 111,112,113,114,115 and 116 of DP 10650.



**Figure 1** | Aerial view of the subject site (Base source: Nearmap)

Immediately to the south of the site is Ettalong Beach fronting Brisbane Water, to the west is the Mantra Resort, to the east is a two-storey motel and to the north is the commercial centre of Ettalong Beach which contains primarily one and two storey commercial/retail buildings.

### 1.3 Approval History

On 24 November 2010, the then Minister for Planning granted Project Approval 09\_0121 for the construction of a mixed-use development over two stages. The approval included:

- Stage 1 - Construction of a seven-storey mixed-use building
- Stage 2 - Construction of a two-storey commercial/retail building.

The development consent has been modified on four occasions (see **Table 1**).

**Table 1** | Summary of Modifications

Mod No.	Summary of Modifications	Approval Authority	Approval Date
MOD 1	Amend Stage 1 to incorporate 14 additional apartments, reduce the building height from 23.5m to 22.85m and internal and external design changes	Planning Assessment Commission	24 March 2016
MOD 2	Amend Condition A2 to correct the application number	Department	4 October 2016
MOD 3	Minor internal and façade changes, minor increase to height and FSR, changes to staging and a reduction in the number of loading bays	Department	8 October 2017
MOD 4	Reconfiguring the plant room and the northern edge of the roof area, creating private terraces for apartments 601 and 602 and constructing a masonry wall dividing the two terraces.	Department	19 September 2018



## 2. Proposed Modification

On 11 October 2018, the Applicant lodged a section 4.55(1A) modification request (MP 09\_0121 MOD 5) seeking approval to make minor internal and external additions and alternations, including the extension and addition of balconies and addition of a rooftop terrace.

The proposed modifications are summarised in **Table 2** and key design changes are illustrated in **Figures 2** to **7**.

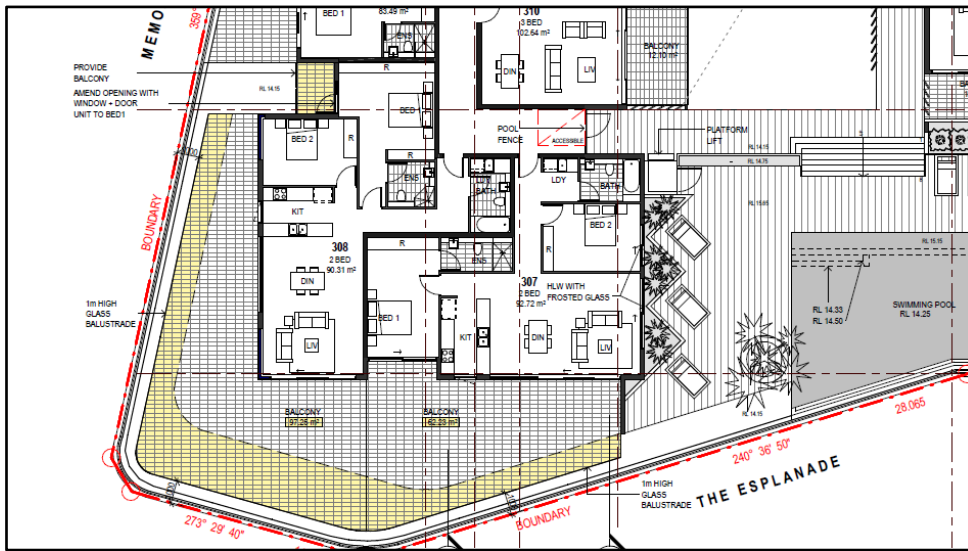
**Table 2** | Summary of original proposed modifications.

Floor Level	Proposed Modification Description
Ground	<ul style="list-style-type: none"><li>• Public bathrooms door location and internal layout modified</li><li>• Entry into private lobby modified</li></ul>
Level 3	<ul style="list-style-type: none"><li>• Additional balcony and amended window and door to bedroom 1 in apartment number 308</li><li>• Extended balcony around apartments 307 and 308.</li></ul>
Level 4	<ul style="list-style-type: none"><li>• Additional balcony and amended window and door to bedroom 1 in apartment number 408</li></ul>
Level 5	<ul style="list-style-type: none"><li>• Extended balcony around apartments 506 and 507.</li></ul>
Level 6	<ul style="list-style-type: none"><li>• Area of plant room reduced.</li><li>• Relocation of the spas on the terrace of apartments 601 and 602.</li><li>• Replacement of the front screen of the level 6 terraces with a new 1m high balustrade.</li><li>• Sliding door to access terrace provided to kitchens of apartments 601 and 602.</li><li>• Isolated doors provided to kitchens of apartments 601 and 602.</li><li>• Spiral stairs form terraces of apartments 601 and 602 to the roof.</li><li>• Isolated plant room entry provided to lobby 2.</li><li>• Additional balconies to bedroom 3 of apartments 601 and 602.</li></ul>
Rooftop	<ul style="list-style-type: none"><li>• Roof over apartments 601 and 602 modified to be a flat concrete slab.</li><li>• Service areas added over apartments 601 and 602.</li><li>• New 1m balustrade provided to the perimeter of the roofs.</li></ul>

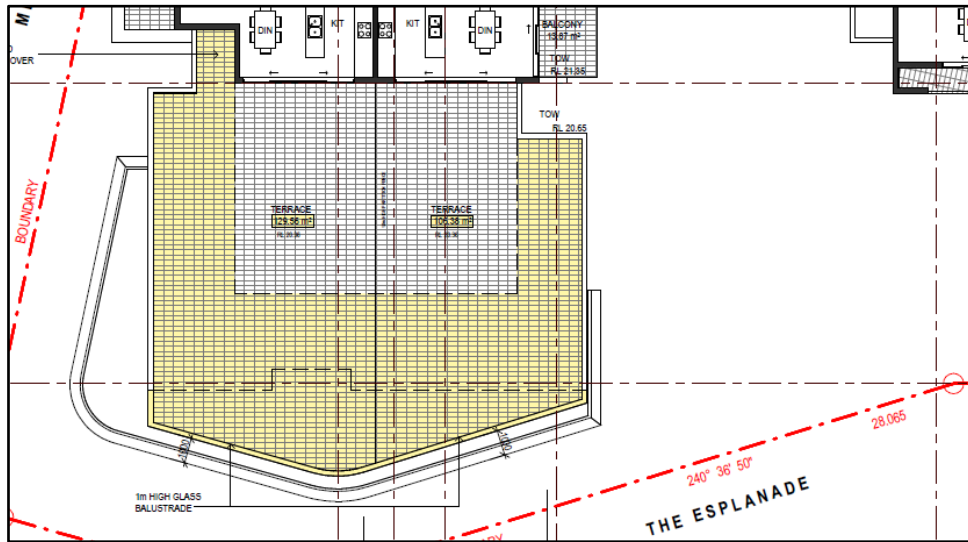
In the Response to Submissions (RtS) and revised plans, the Applicant reduced the scope of the modification to:

- reduce the balcony extensions and length of privacy screens on Levels 3 and 5; and
- remove the proposed changes to the rooftop.

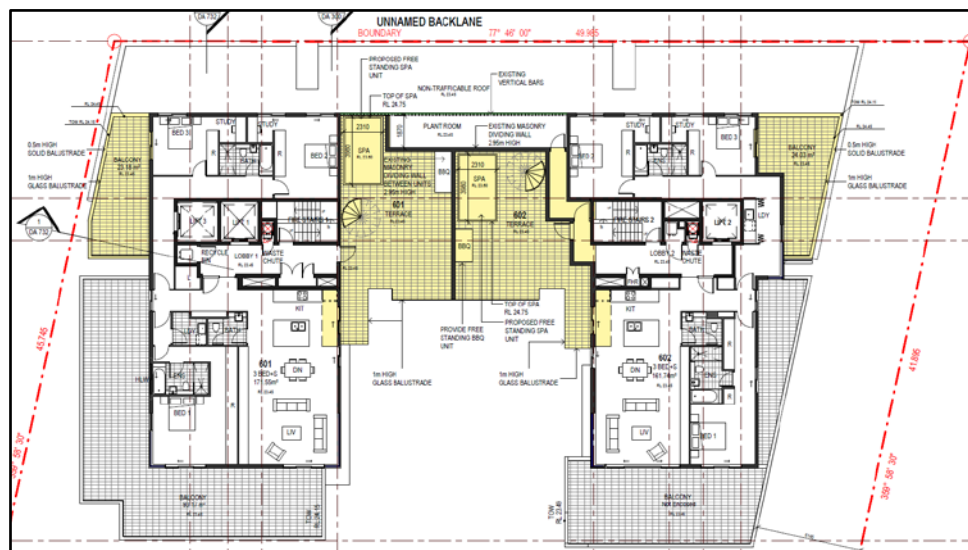




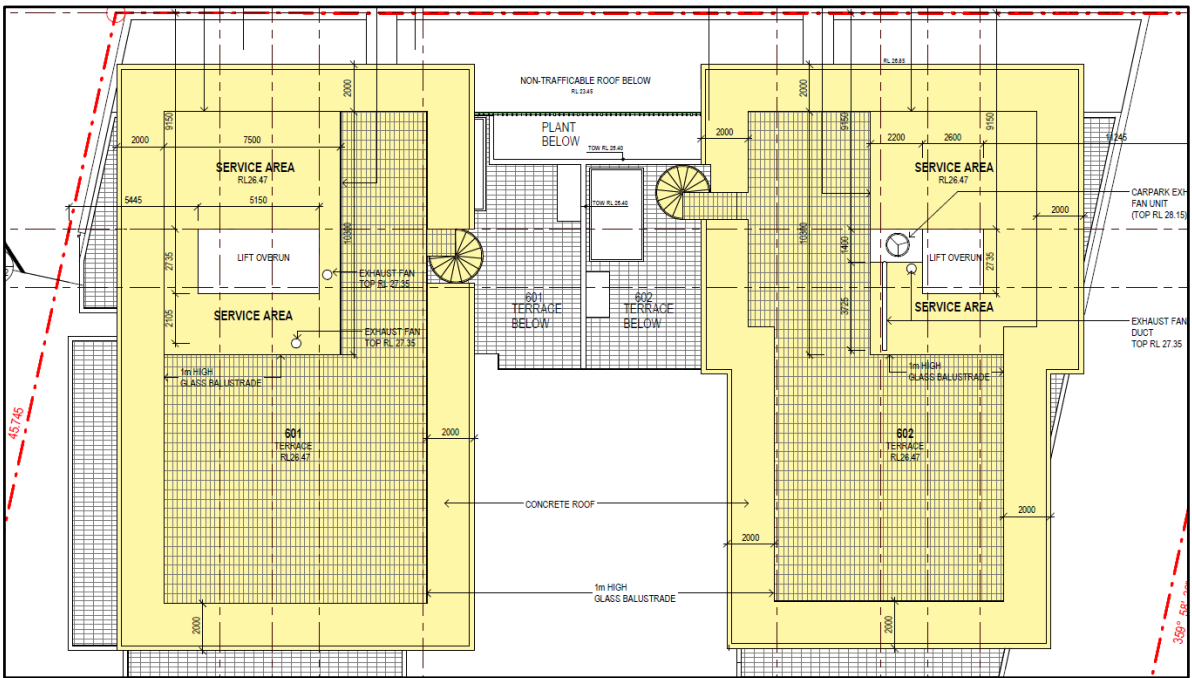
**Figure 2** | Original proposed modifications to Level 3 (Source: Applicant's Application)



**Figure 3** | Original proposed modifications to Level 5 (Source: Applicant's Application)



**Figure 4** | Original proposed modifications to Level 6 (Source: Applicant's Application)



**Figure 5** | Original proposed modifications to the Roof Level (Source: Applicant's Application)



**Figure 6** | Original proposed modifications to the North Elevation (top) and South Elevation (bottom) (Source: Applicant's Application)



**Figure 7** | Original proposed modifications to the East Elevation (top) and West Elevation (bottom)  
 (Source: Applicant's Application)



## 3. Statutory Context

### 3.1 Scope of Modifications

Section 4.55(1A) of the EP&A Act outlines the matters that a consent authority must take into consideration when determining an application that seeks to modify an SSD application and results in minor environment impacts.

The matters for consideration under section 4.55(1A) of the EP&A Act that apply to the modification of the project approval have been considered in **Table 3**.

**Table 3** | Section 4.55(1A) Modification involving minimal environmental impact

Section 4.55 (1A) Evaluation	Consideration
a) that the proposed modification is of minimal environmental impact, and	<b>Section 5</b> of this report provides an assessment of the impacts associated with the proposal. The Department is satisfied that the modification is of minimal environmental impact.
b) that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and	The proposed modification seeks approval to make minor changes including additional balconies and extensions to existing balconies. The overall use of the building remains as approved. The proposed modifications result in only minor changes to the appearance of the building. On this basis, the Department is satisfied the modification is substantially the same as the originally approved development.
c) the application is notified in accordance with the regulations, and	The modification application has been notified in accordance with the regulations. Details of the notification are provided in <b>Section 4</b> of this report.
d) any submissions made concerning the proposed modification have been considered.	The Department received 22 public submissions and a submission from Council on the proposal. Details of the submissions and the Department's consideration can be found in <b>Section 4</b> of this report.

### 3.2 Environmental Planning Instruments

The following EPIs are relevant to the application:

- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004
- State Environmental Planning Policy No. 55- Remediation of Land
- State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development
- Gosford Local Environmental Plan 2014.

The Department has considered the proposed modification against these above-mentioned EPIs in its original assessment. The Department considers the modification does not result in any significant changes that would alter the considerations and conclusions made as part of the original assessment.

### State Environmental Planning Policy (Coastal Management) 2018 (Coastal SEPP)

The Department has also considered the proposal against the requirements of the Coastal SEPP which commenced on 3 April 2018. The Coastal SEPP consolidates and replaces SEPP 14 (Coastal Wetlands), SEPP 26 (Littoral Rainforests) and SEPP 71 (Coastal Protection). The Department considered the development against SEPP 71 in its original assessment.

The Coastal SEPP identifies the site as being located within the Coastal Environment Area and therefore clause 13 applies. The Department has considered the proposal against this clause and is satisfied that the proposal is consistent with the Coastal SEPP as it does not seek to change the footprint of the development and would not result in any additional coastal impacts beyond those already assessed and approved in the original assessment.

### **3.3 Part 3A Transition to State Significant Development**

The Project Application (MP 09\_0121) was approved under Part 3A of the EP&A Act. On 1 March 2018, the transitional arrangements for Part 3A approvals ended. In order to modify a Part 3A approval, it must be declared SSD by the Minister for Planning and modified under section 4.55 of the EP&A Act.

Under clause 6 of Schedule 2 of the *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017*, the Project Application was transitioned to SSD by an Order, which took effect by publication in the NSW Government Gazette on 6 July 2018.

The application has been lodged under section 4.55(1A) of the EP&A Act for a modification involving minimal environmental impact.

### **3.4 Consent Authority**

The Minister for Planning is the consent authority for the application. However, the Independent Planning Commission may determine the application as a previous political donation has been made and the Department received more than 10 submissions objecting to the proposal.



## 4. Engagement

### 4.1 Department's Engagement

The Department notified the modification request for 28 days between 9 November 2018 and 7 December 2018. The request was made publicly available on the Department's website, notified to Central Coast Council (Council) and surrounding landowners and residents.

The Department received a total of 23 submissions, comprising a submission from Council and 22 submissions from the public, with 19 objections and 3 comments. A summary of the submissions is provided below, and a full copy of the submissions is provided in **Appendix A**.

On 29 November 2018, the Department visited the site and the adjoining Mantra development with delegates from the Mantra Resort strata committee.

**Council** did not object to the proposed modification.

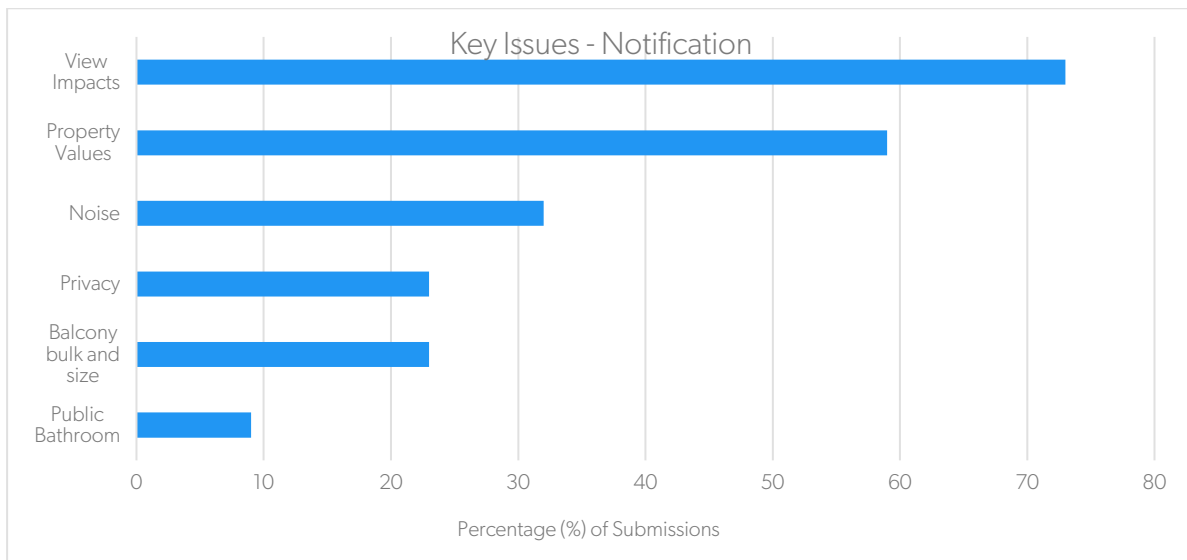
### 4.2 Public Submissions

The Department received 22 public submissions in response to the exhibition of the modification request, with 19 in objection and 3 providing comments. All public submissions were received from owners or occupiers of the adjacent Mantra development.

Key concerns raised in the public submissions included:

- View impacts, particularly from the extensions to Levels 3 and 5 balconies and proposed rooftop terrace
- Visual privacy impacts from the extended balconies and additional balconies into the eastern Mantra apartments
- The extended balconies, particularly on Level 3 detract from the original setback tiered appearance
- Noise impacts due to the increased balconies sizes which is said to result in more people and parties
- Neighboring properties will be devalued
- The ground floor public bathroom with street access will attract loitering and raises safety concerns.

**Figure 8** summarises the issues raised in public submissions, presented in the order of frequency they were raised (most to least).



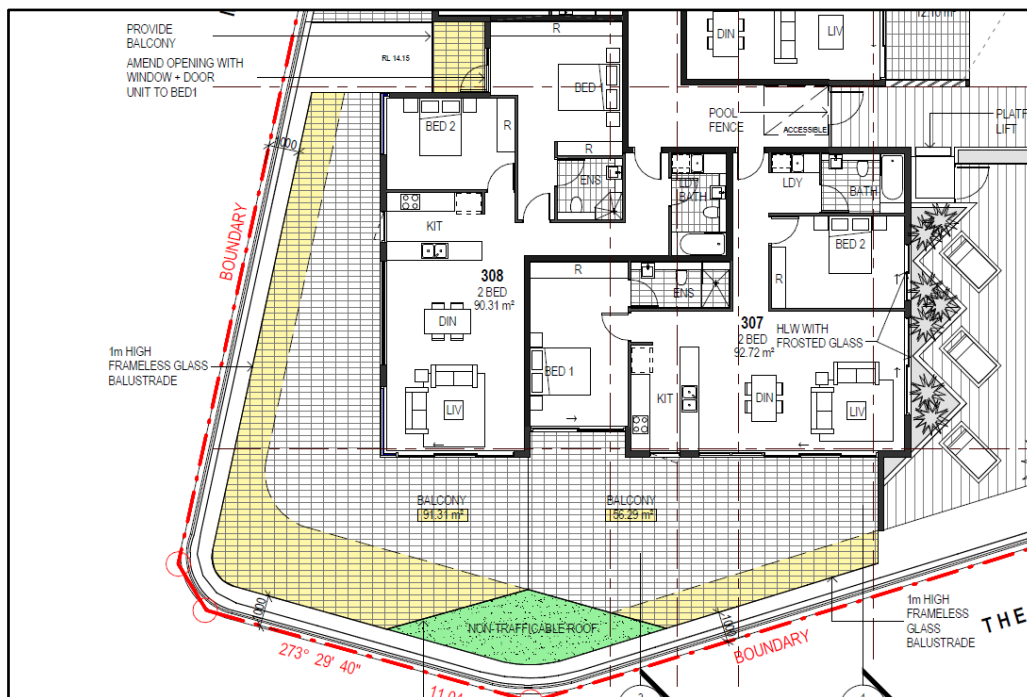
**Figure 8** | Public submissions ranked in order of the percentage of submissions received per issue.

### 4.3 Response to Submissions

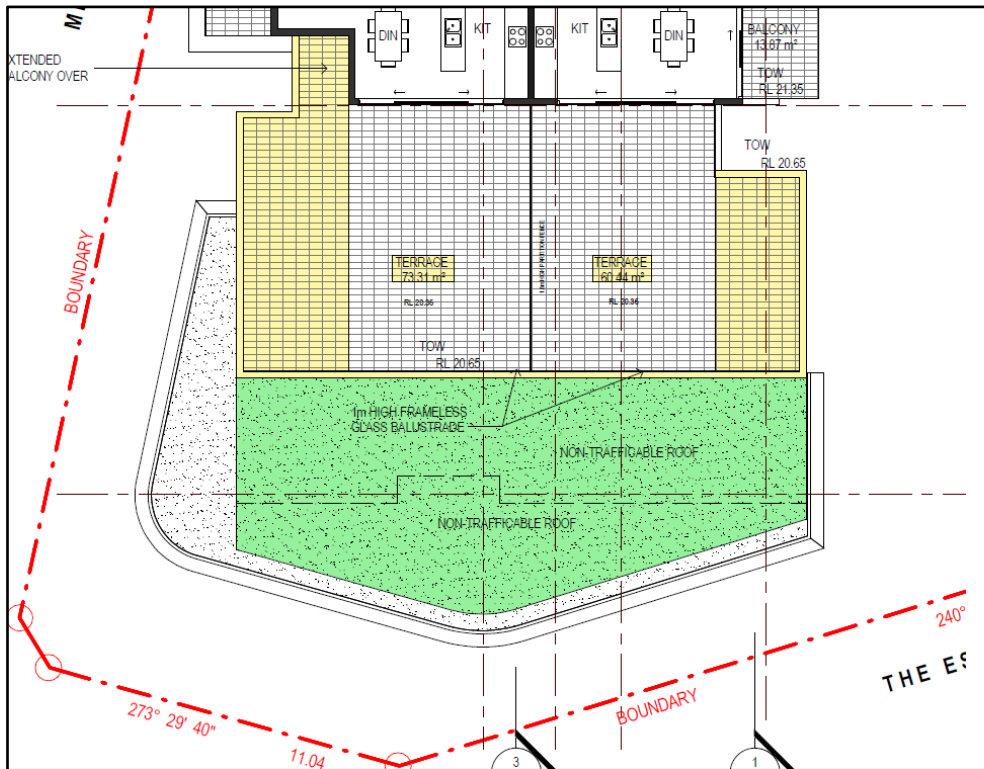
On 20 December 2018, the Applicant provided a Response to Submissions (RtS) to address the issues raised during the notification period (**Appendix A**). As part of the RtS, the Applicant made amendments to the application in response to concerns raised in public submissions by:

- making sections of the balconies on levels 3 and 5 for apartments 307, 308, 506 and 507 non-trafficable
- reducing the extent of privacy screens on levels 3 and 5
- proposing that the new glass balustrades on levels 3 and 5 are to be frameless
- removing the proposed changes to the rooftop.

**Figures 9 to 13** demonstrate some of the key changes.



**Figure 9** | Level 3 floor plan with revisions to original application shown in green (Source: RtS)



**Figure 10** | Level 5 floor plan with revisions to original application shown in green (Source: RtS)



**Figure 11** | East elevation with revisions to the Level 3 privacy screen shown in green (Source: RtS)



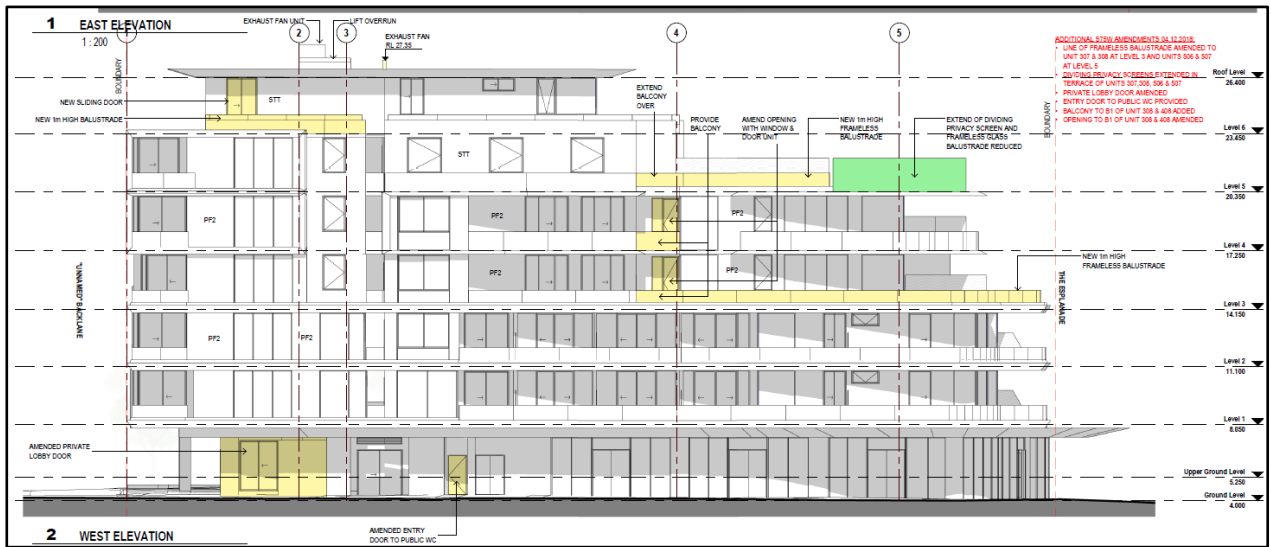


Figure 12 | West elevation with revision to the Level 5 privacy screen shown in green (Source: RtS)



Figure 13 | South elevation with revisions shown in yellow (Source: Revised plans 19.2.2019)



## 5. Assessment

In assessing the merits of the proposed modification, the Department has considered the:

- the modification and associated documents (**Appendix A**)
- the Environmental Assessment and conditions of approval for the original project (as modified)
- submissions received on the proposal and the Applicant's response to the submissions
- relevant environmental planning instruments, policies and guidelines
- requirements of the EP&A Act.

The Department considers the key assessment issues for the modification request are view impacts, privacy and noise. The Department's assessment of other issues is set out in **Table 5**.

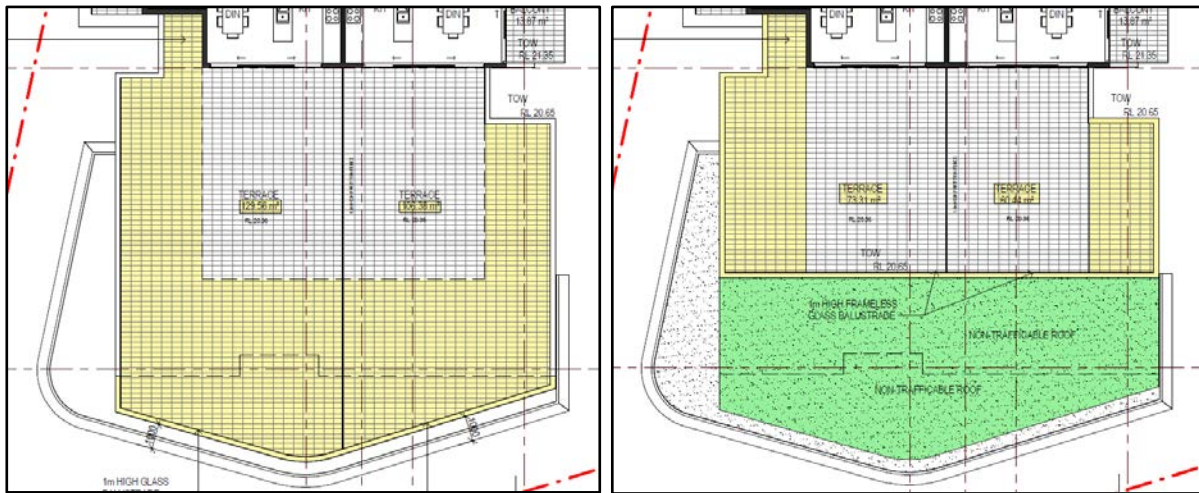
### 5.1 View Impacts

Public submissions raised concerns about the potential impact of the proposed extended balconies and rooftop terrace on views from the Mantra.

In response, the Applicant revised the application in the RtS to remove the proposed rooftop terrace, reduce the extent of the level 3 and 5 balcony extensions and privacy screens. The Applicant also amended the design of the balustrades from glass to frameless glass for levels 3 and 5. A comparison of the original and revised proposed modifications is shown in **Figures 14** and **15**.



**Figure 14:** Level 3: Original proposed modification (left) and revised proposed modification after RtS (right).



**Figure 15:** Level 5: Original proposed modification (left) and revised proposed modification after RtS (right).

To ascertain whether the impacts of the proposed modification on views from the Mantra are reasonable, the Department has followed a four-step assessment process outlined in the principles established by *Tenacity Consulting v Warringah* [2004] NSWLEC 140. The steps/principles adopted in the decision are:

1. assess what views are affected and the qualitative value of those views
2. consider from what part of the property the views are obtained
3. assess the extent of the impact (from 'negligible' to 'devastating')
4. assess the reasonableness of the proposal that is causing the impact.

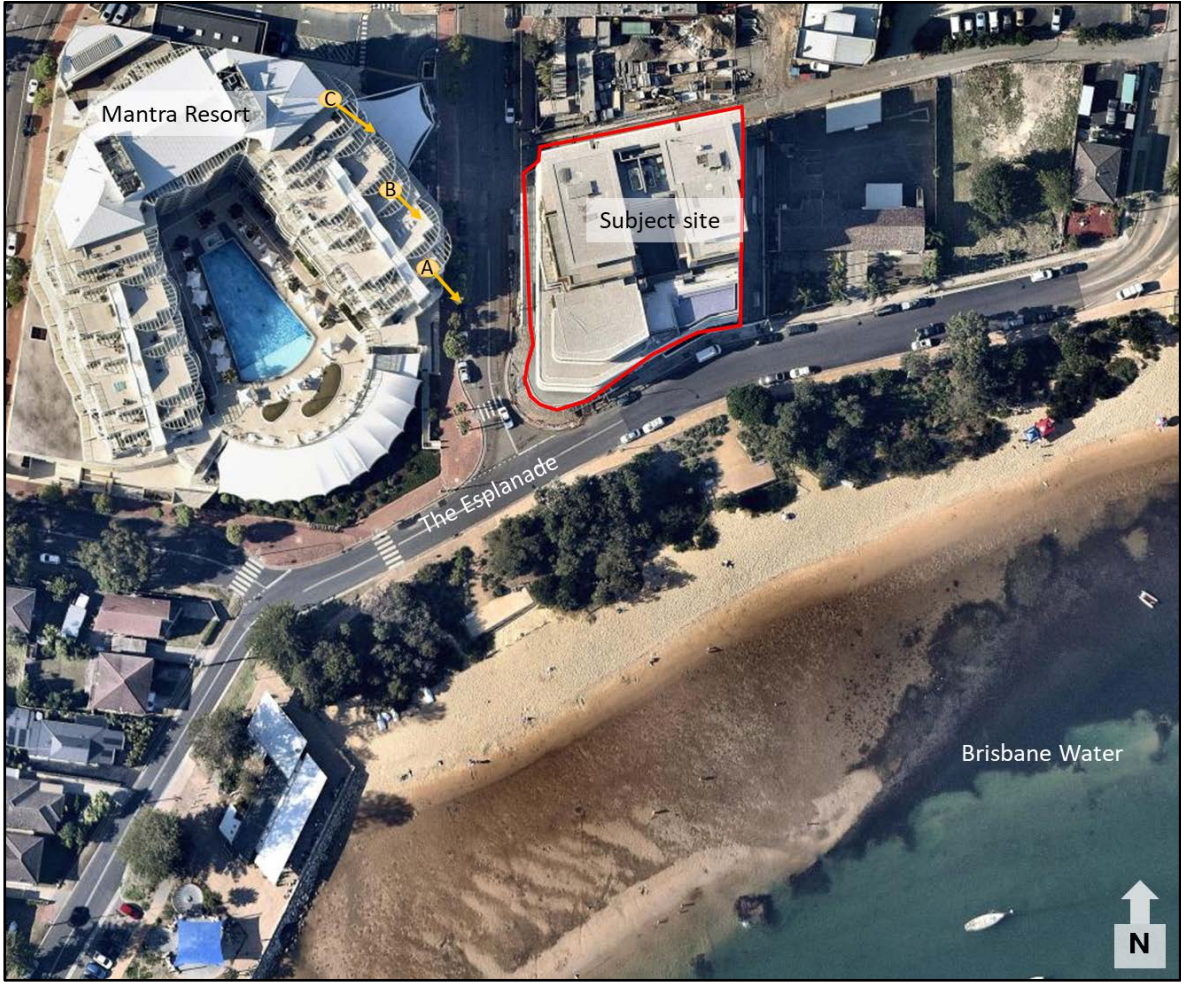
Step 1: The Mantra is a nine-storey mixed use building configured in a U-shape around the pool area. The apartments have a predominately south-east aspect with existing views to the south, south-west and south-east towards the Brisbane Water and surrounding district (**Figure 16**). The proposed balconies would interrupt some water views towards the south east. All other views would be retained.

Step 2: The views most affected by the proposal are generally gained from living areas and balconies of apartments along the eastern elevation of the Mantra. The view loss impacts to some of these apartments are shown in **Figures 17 to 19**. These images have been marked up to show the extent of the approved balconies (green) and the indicative extent of the proposed balconies (red). Note: the balustrades in the photographs are not expanding to the length shown in these pictures. The balustrades have since been removed (see **Figure 16**).

Step 3: The Department considers the overall change in views compared to the original approval is negligible. At all locations (A, B and C), the overall appearance of the view remains similar. Views of the water and district are retained, and the marginal loss of water and sky views as a result of the proposal would not impact on the overall quality of the view.

Step 4: The proposal does not seek to increase the height, bulk or scale of the building. Rather it seeks to provide additional/extended balconies within the approved building enveloped. The proposal has been assessed in detail and the Department is satisfied it would not result in any unacceptable view loss or other amenity impacts. The Department therefore considers the proposal is reasonable.

The Department also notes the proposed frameless glass balustrades for levels 3 and 5 will minimise the visual impacts of the balustrades and ensure through balcony views. Based on the above assessment, the Department is satisfied the proposal is reasonable and the additional view loss impacts are negligible.



**Figure 16:** Aerial photograph showing view points from the Mantra building (Base source: Nearmap)



**Figure 17:** Visual impacts of approved (green) and proposed (red) balustrades from Location C – Penthouse balcony at the Mantra (Base source: Department’s photograph 29.11.18)



**Figure 18:** Visual impacts of approved (green) and proposed (red) balustrades from Location B – mid level apartment balcony at the Mantra (Base source: Department’s photograph 29.11.18)



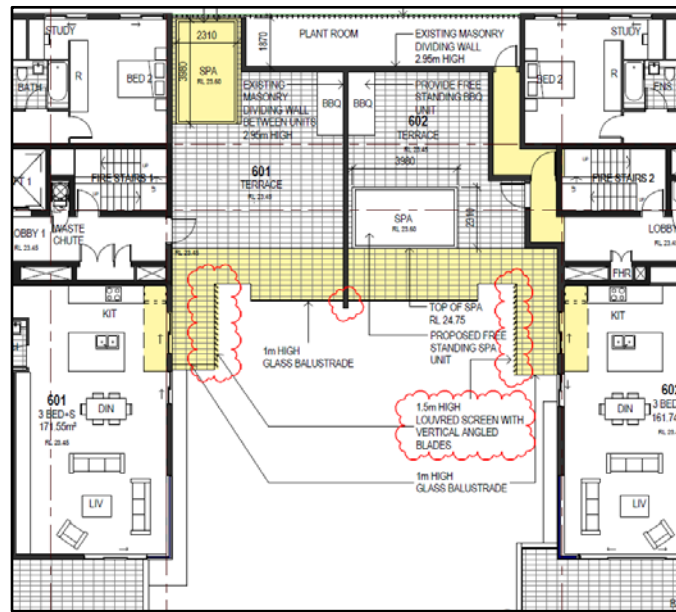
**Figure 19:** Visual impacts of approved (green) and proposed (red) balustrades from Location A – lower level apartment balcony at the Mantra (Base source: Department’s photograph 29.11.18)

## 5.2 Other Issues

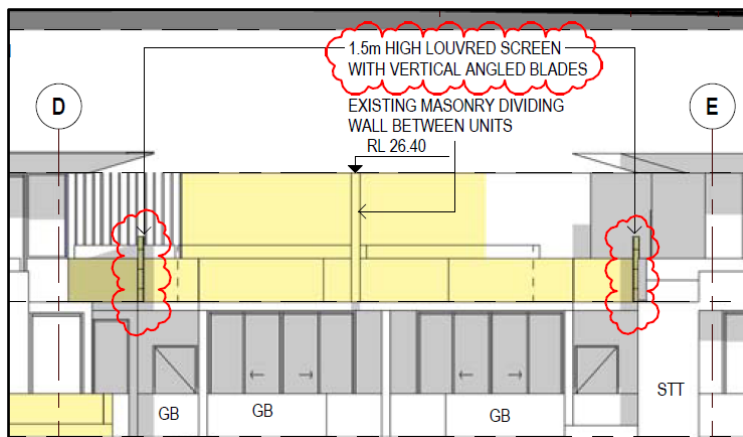
**Table 5** | Summary of other issues

Issue	Findings	Recommended Condition
<i>External Privacy</i>	<p data-bbox="384 1144 740 1173"><i>Western and Southern Balconies</i></p> <ul style="list-style-type: none"> <li data-bbox="384 1196 1190 1279">• The proposal seeks to add new balconies on level 3 (off bedroom 1 in apartment 308), level 4 (off bedroom 1 in apartment 408) and on level 6 (off bedroom 3 in apartment 601).</li> <li data-bbox="384 1283 1190 1335">• The proposal also seeks to extend the approved balconies on level 3 (off apartments 307 and 308) and 5 (off apartments 506 and 507).</li> <li data-bbox="384 1339 1190 1422">• Public submissions raised concerns about the potential privacy impacts associated with the extended and additional balconies on the western side of the development and the rooftop terrace.</li> <li data-bbox="384 1426 1190 1478">• In response, the Applicant removed the proposed rooftop terrace from the application and reduced the size of the proposed balcony extensions.</li> <li data-bbox="384 1482 1219 1805">• The Department considers the proposal would not result in any significant privacy impacts compared to the original approval as:               <ul style="list-style-type: none"> <li data-bbox="416 1541 1219 1624">○ the separation distance between the subject site and the neighboring Mantra building is at least 18m which is consistent with the requirements outlined in the ADG</li> <li data-bbox="416 1628 1166 1680">○ the approved development already contains extensive balconies along its western and southern elevations</li> <li data-bbox="416 1684 1219 1736">○ the proposed new balconies are secondary balconies coming off bedrooms and as such are not considered to be high trafficable areas</li> <li data-bbox="416 1740 1219 1805">○ the removal of the rooftop terrace and the reduction in the size of the balconies would help minimise potential privacy impacts between the two buildings.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li data-bbox="1246 1137 1425 1245">• No additional conditions or amendments necessary.</li> </ul>

Issue	Findings	Recommended Condition
	<p><i>Eastern Balcony</i></p> <ul style="list-style-type: none"> <li>The proposal seeks to add a new balcony on the eastern side of level 6 (off bedroom 3 in apartment 602).</li> <li>The Department finds the proposed balcony is acceptable as: <ul style="list-style-type: none"> <li>it is a secondary balcony coming off a bedroom and as such is not considered to be highly trafficable</li> <li>the neighboring development is a commercial use consisting of a two storey motel and carpark</li> <li>the primary views from the balcony would be in a southern direction towards the water.</li> </ul> </li> <li>Overall, the Department's assessment concludes the new and extended balconies would not result in any significant privacy impacts beyond those already assessed and approved.</li> </ul>	
<b>Noise</b>	<ul style="list-style-type: none"> <li>Public submissions raised concern about potential noise impacts arising from the use of the proposed increased and additional balconies and the rooftop terrace.</li> <li>The Department has considered the public submissions, and is satisfied this modification would be acceptable for the following reasons: <ul style="list-style-type: none"> <li>the Applicant revised the proposal to reduce the size of the balconies for apartments 307, 308, 506 and 507, and remove the proposed rooftop terrace</li> <li>the proposal does not seek approval to change the residential use of the development</li> <li>the existing development already includes extensive balconies</li> <li>the new balconies are secondary balconies attached to bedrooms and as such are not considered to be highly used spaces.</li> </ul> </li> <li>Overall, the Department concludes that the proposal is acceptable as it will not result in unacceptable noise impacts beyond those already approved.</li> </ul>	<ul style="list-style-type: none"> <li>No additional conditions or amendments necessary.</li> </ul>
<b>Bulk and Scale</b>	<ul style="list-style-type: none"> <li>Two submissions raised the issue of bulk and scale of the development.</li> <li>The Department notes the proposed modifications would be largely contained within the approved building envelope and the development would retain a tiered and stepped appearance.</li> <li>As such, the Department is satisfied the proposal would not result in any significant changes to the approved bulk and scale of the building.</li> </ul>	<ul style="list-style-type: none"> <li>No additional conditions or amendments necessary.</li> </ul>
<b>Apartment Design Guide (ADG)</b>	<ul style="list-style-type: none"> <li>The proposed balconies and extensions are generally compliant with the ADG. The Department considers the new and modified balconies will provide improved amenity to the apartments by further increasing private open space levels, maximizing views towards Brisbane Water and increasing passive surveillance opportunities.</li> <li>Despite these improvements, the Department raised concern about privacy between apartments 601 and 602. The proposal seeks to extend the balconies and replace the approved privacy screening with glass balustrades. These amendments are sought to improve the amenity of the apartments by providing the terraces with water views.</li> <li>In response, the Applicant provided amended plans that add 1.5m high louvred screens with vertical angled blades to the balconies and extend the approved masonry dividing wall between the terraces as shown in <b>Figures 20</b> and <b>21</b>.</li> </ul>	<ul style="list-style-type: none"> <li>No additional conditions or amendments necessary.</li> </ul>



**Figure 20:** Revised Level 6 floor plans showing changes to the terraces  
(Source: Applicant’s revised plans dated 19.2.19)



**Figure 21:** Revised Southern Elevation showing changes to the terraces  
(Source: Applicant’s revised plans dated 19.2.19)

- The Department considers the proposal is acceptable as:
  - overlooking impacts have been minimised through the Applicant’s revised plans which now include 1.5m high louvred screens along the balconies and an extended dividing wall between the terraces
  - the amenity of these apartments will be improved by views towards Brisbane Waters
  - the apartments as approved were designed to minimise overlooking by orientating living areas and the primary balconies to the south towards the water.
- In this instance, the Department considers that the reduction in internal privacy is offset by the iconic water views, providing an acceptable level of residential amenity.

**Ground floor public bathroom**

- The proposal seeks to modify the public bathroom door location and internal layout. This is requested on the basis that it will improve the use, design and surveillance of the public bathroom accessed from Memorial Avenue.

- The Department has recommended a condition requiring the door to the



Issue	Findings	Recommended Condition
	<ul style="list-style-type: none"> <li>The Department acknowledges that submissions raised concern about the safety of the public bathroom being accessed from the street and increased loitering.</li> <li>It is noted that this bathroom is intended for use by the public customers and staff of the retail tenancies of the development and not the public at large. It is also noted that Memorial Avenue is open and there are sufficient surveillance opportunities from surrounding developments and the street level.</li> <li>Despite this, the Department recommends a condition requiring the bathroom to be accessed by a key with a self-locking mechanism on the door. The Department considers this would appropriately increase safety to the ground floor bathroom.</li> </ul>	<p>bathroom to contain a self-locking mechanism and require a key to access.</p>
<b>Property Values</b>	<ul style="list-style-type: none"> <li>Concern was raised in public submissions about the modification resulting in a reduction to property values.</li> <li>The Department notes that impacts on property values is not a planning consideration under the EP&amp;A Act. Notwithstanding, the Department has undertaken a detailed merit assessment of the proposal and is satisfied it would not result in any unreasonable amenity impacts. On this basis, the Department considers the proposal would not negatively impact on property prices.</li> </ul>	<ul style="list-style-type: none"> <li>No additional conditions or amendments necessary.</li> </ul>
<b>Development precedent</b>	<ul style="list-style-type: none"> <li>Public submissions raised concern that the proposal sets an unacceptable development precedent for the area.</li> <li>The Department notes that all modification applications are assessed on their merits, having regard to the impacts of the application and the issues raised in submissions. The Department has undertaken a detailed merit assessment of the proposal and is satisfied it would not result in any unreasonable impacts on the development in terms of views, amenity and bulk and scale.</li> <li>The Department therefore, does not consider the proposal would set an unacceptable development precedent.</li> </ul>	<ul style="list-style-type: none"> <li>No additional conditions or amendments necessary.</li> </ul>



## 6. Evaluation

The Department has assessed the proposed modification in accordance with the relevant requirements of the EP&A Act. The Department considers the proposed modification is appropriate as:

- the potential view loss impacts associated with the proposal would be negligible
- the proposal would not result in any significant noise and visual privacy compared to the original approval
- the proposal would largely be undertaken within the approved building envelope and would not increase the height, bulk or scale of the building
- the proposal would improve the amenity of some apartments through the provision of additional private open space
- appropriate conditions are recommended to increase the safety of the ground floor public bathroom.

The Department is satisfied that the modification should be approved, subject to the recommended conditions outlined in **Appendix B**. This assessment report is hereby presented to the IPC for determination.

Recommended by:

**Anthony Witherdin**

Director

Regional Assessments

Recommended by:

**Anthea Sargeant** 5/4/19

Executive Director

Key Sites and Industry Assessments



# Appendices

## Appendix A – Relevant Supporting Information

The following supporting documents and supporting information to this assessment report can be found on the Department's website at:

1. Modification Request  
[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=9660](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9660)
2. Submissions  
[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=9660](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9660)
3. Response to Submissions  
[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=9660](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9660)

## Appendix B – Notice of Modification

The recommended modification of Development Consent can be found on the Department's website at:  
[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=9660](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9660)